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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 TYRELL LEWIS,  
15 Defendant.

Case No.: 14-CR-0369-W

**ORDER DENYING MOTION TO  
REDUCE SENTENCE**

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17 On March 16, 2015, this Court sentenced Defendant Tyrell Lewis to a mandatory  
18 minimum of 10 years' imprisonment for transportation of a minor to engage in  
19 prostitution in violation of 18 U.S.C. § 2423(a). Defendant now moves for a reduction in  
20 sentence under 18 U.S.C. § 3582(c)(1)(A), or time served with home confinement as a  
21 condition of supervision in the alternative, arguing that his asthma and pernicious anemia  
22 make him particularly vulnerable to becoming seriously ill from COVID-19.

23 18 U.S.C. § 3582(c) provides that a defendant may bring a motion only after he has  
24 "fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons" to  
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1 bring a motion on his behalf. Defendant has satisfied the exhaustion requirement and the  
2 Court has jurisdiction and for the reasons below **DENIES** Defendant's motion.

3 Under 18 U.S.C. § 3582(c)(1)(A), a court may reduce a defendant's term of  
4 imprisonment "after considering the factors set forth in [18 U.S.C. § 3553(a)]" if the  
5 court finds that "extraordinary and compelling reasons warrant such a reduction" and  
6 "such a reduction is consistent with applicable policy statements issued by the Sentencing  
7 Commission." The United States Sentencing Commission ("USSG") recognizes that  
8 certain medical conditions may constitute an "extraordinary and compelling reason"  
9 warranting a reduction in sentenced under § 3582. See USSG § 1B1.13. However,  
10 application note 1(A) limits a reduction for medical conditions to "terminal illness" or if  
11 the defendant is:

- 12 (I) suffering from a serious physical or medical condition,
- 13 (II) suffering from a serious functional or cognitive impairment, or
- 14 (III) experiencing deteriorating physical or mental health because of
- 15 the aging process,

16 that substantially diminishes the ability of the defendant to provide self-care  
17 within the environment of a correctional facility and from which he or she is  
18 not expected to recover.

19 U.S.S.G. § 1B1.13, cmt. n.1(A)(i)-(ii).

20 Defendant's medical ailments do not meet these limitations. Neither of  
21 Defendant's asserted conditions are terminal. In fact, both conditions are either resolved  
22 or well managed. Defendant's Bureau of Prisons medical records indicate that he has not  
23 suffered a recurrence of his childhood asthma during his 6.5 years of incarceration. As of  
24 June 18, 2020, Defendant's "Vitamin B12 deficiency anemia" is "well treated with B12

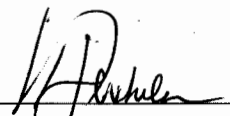
1 injections every 4 weeks” and appears to be abating. See Gov. Ex. 3 at 11. Neither of  
2 these conditions present any impediment to Defendant’s ability to provide self-care in the  
3 institution.

4 Nor are either of Defendant’s conditions identified by the Center for Disease  
5 Control as increasing a person’s risk for developing serious illness from COVID-19. The  
6 CDC recently revised its assessment of people with “moderate-to-severe” asthma from  
7 “are at increased risk” for severe illness to the lower tier of “might be at an increased  
8 risk.” Even assuming Defendant currently suffers from asthma, there is no basis to  
9 characterize it as “moderate-to-severe.” The mere potential to contract COVID-19,  
10 which threatens every non-immune person in the country, does not alone provide a basis  
11 for a sentence reduction. The facility where Defendant is housed has not reported any  
12 Covid-19 deaths and the Bureau of Prisons has a lengthy and detailed protocol addressing  
13 social distancing, hygienic and cleaning protocols, and the quarantining and treatment of  
14 symptomatic inmates.

15 Therefore, Defendant is not eligible for a sentence reduction due to extraordinary  
16 and compelling reasons based upon the USSG policy statement. Defendant’s alternative  
17 request for a time served sentence followed by home incarceration as a condition of  
18 supervision is also denied based on the foregoing.

19 **IT IS SO ORDERED.**

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21 Dated: August 13, 2020

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24 Hon. Thomas J. Whelan  
25 United States District Judge